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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

KAPLAN Aaron et al

Serial No.: 10/669,174

Filed: September 24, 2003

For: Plants Characterized by Enhanced Growth and Methods and Nucleic Acid Constructs Useful for Generating Same

Examiner:

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Group Art Unit: 1638

Attorney  
Docket: 26863

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**AMENDED REQUEST FOR CORRECTED FILING RECEIPT**

Sir:

This Amended Request For Corrected Filing Receipt is in response to the Response to Request for Corrected Filing Receipt dated August 3, 2004, a copy of which is attached.

Attached is a copy of the original Request For Corrected Filing Receipt which contained a copy of the official filing receipt received from the United States Patent and Trademark Office in the above application as well as a copy of the first page of the specification. Issuance of a corrected filing receipt to correct an error of the USPTO is respectfully requested.

Please amend the “Domestic Priority data as claimed by applicant:

“This application is a continuation-in-part of U.S. Patent Application No. 10/410,432, filed April 10, 2003, which is a continuation-in-part of PCT/IL02/00250,

filed March 26, 2002, which claims priority of U.S. Patent Application No. 09/828,173, filed April 9, 2001.

This application is also a continuation-in-part of U.S. Patent Application No. 09/887,038, filed June 25, 2001, which is a continuation of U.S. Patent Application No. 09/332,041, filed June 14, 1999, now U.S. Patent No. 6,320,101, issued November 20, 2001.”

A copy of the first paragraph of th specification is attached hereto.

\ Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sol Sheinbein', with a stylized flourish at the end.

Sol Sheinbein  
Registration No. 25,457

Date: August 22, 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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| APPLICATION NUMBER | FILING OR 371(c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-----------------------|-----------------------|------------------------|
|--------------------|-----------------------|-----------------------|------------------------|

10/669,174

09/24/2003

Aaron Kaplan

26863

CONFIRMATION NO. 4165



\*OC000000013415690\*

c/o ANTHONY CASTORINA  
G.E. EHRLICH (1995) LTD.  
SUITE 207  
2001 JEFFERSON DAVIS HIGHWAY  
ARLINGTON, VA 22202

Date Mailed: 08/03/2004


## RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

### Domestic Continuity and Foreign Priority

In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

- ☐ The priority or continuity claim has not been entered because it was not filed during the required time period. Applicant may wish to consider filing a petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55 or 1.78.
- ☒ Continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the applicant supplying the relationship (continuation, divisional, or continuation-in-part) in an Application Data Sheet or amendment to the first page of the specification. *09/828173*
- ☐ A claim for priority cannot be made based on an application filed after the application making the claim.
- ☐ Domestic benefit and foreign priority claims will not be captured in a provisional application. A provisional application is not entitled to a right of priority or to the benefit of an earlier filing date of any other application. See 35 U.S.C. § 111(b)(7) and 37 CFR 1.53(c)(4).
- ☐ A domestic continuity claim cannot be made to a foreign application and the filing receipt will only list the foreign country, application number, and filing date.
- ☐ Foreign priority will appear on the Filing Receipt in the following order: **Country, Application number, Filing date.**
- ☐ This application is the result of a conversion from a provisional application. Priority based on such application cannot be made since it no longer exists as a provisional application.

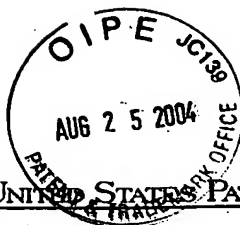
- ☐ The application(s) to which priority is claimed were filed over a year prior to the filing date of this application. Therefore, the referenced application(s) cannot be claimed as domestic or foreign priority.
- ☐ To change the benefit claim of a U.S. prior-filed application, applicant must amend the first sentence of the specification (if the benefit claim is referenced in the specification), or provide a supplemental application data sheet (ADS) (if the benefit claim was submitted in an ADS), with the desired benefit claim. Note that once a benefit claim is deleted, applicant will not be able to claim such prior-filed application again, if the above-identified application was filed on or after November 29, 2000.
- ☐ To change a foreign priority claim, applicant must submit a supplemental oath or declaration (if the priority claim is referenced in the oath or declaration), or a supplemental application data sheet (ADS) (if the priority claim was submitted in an ADS), with the desired priority claim. If a supplemental ADS is submitted, any deletions should be shown with strikeouts. Note that once a priority claim is deleted, applicant will not be able to claim such foreign application again, if the above-identified application was filed on or after November 29, 2000.

  
\_\_\_\_\_  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



Date: June 30, 2004



File Copy

## UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPL NO.   | FILING OR 371<br>(c) DATE | ART UNIT | FIL FEE REC'D | ATTY. DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|------------|---------------------------|----------|---------------|-----------------|----------|----------|----------|
| 10/669,174 | 09/24/2003                | 1638     | 576           | 26863           | 13       | 34       | 3        |

CONFIRMATION NO. 4165

## UPDATED FILING RECEIPT



\*OC000000012147760\*

c/o ANTHONY CASTORINA  
 G.E. EHRLICH (1995) LTD.  
 SUITE 207  
 2001 JEFFERSON DAVIS HIGHWAY  
 ARLINGTON, VA 22202

Date Mailed: 03/19/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Aaron Kaplan, Jerusalem, ISRAEL;  
 Judy Lieman-Hurwitz, Jerusalem, ISRAEL;  
 Daniella Schatz, Jerusalem, ISRAEL;  
 Ron Mittler, Jerusalem, ISRAEL;  
 Shimon Rachmilevitch, Ramat Gan, ISRAEL;

## Domestic Priority data as claimed by applicant

This application is a CIP of 10/410,432 04/10/2003  
 which is a CIP of PCT/IL02/00250 03/26/2002  
 This application 10/669,174  
 is a CIP of 09/887,038 06/25/2001  
 which is a CON of 09/332,041 06/14/1999 PAT 6,320,101

## Foreign Applications

If Required, Foreign Filing License Granted: 11/26/2003

Projected Publication Date: 07/01/2004

Non-Publication Request: No

Early Publication Request: No

**\*\* SMALL ENTITY \*\*****Title**

Plants characterized by enhanced growth and methods and nucleic acid constructs useful for generating same

**Preliminary Class**

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



## APPLICATION FOR PATENT

Inventors: Aaron Kaplan, Judy Lieman-Hurwitz, Daniella Schatz, Ron Mittler,  
Shimon Rachmilevitch.

Title: PLANTS CHARACTERIZED BY ENHANCED GROWTH  
AND METHODS AND NUCLEIC ACID CONSTRUCTS  
USEFUL FOR GENERATING SAME

This application is a continuation-in-part of U.S. Patent Application No. 10/410,432, filed April 10, 2003, which is a continuation-in-part of PCT/IL02/00250, filed March 26, 2002, which claims priority of U.S. Patent Application No. 09/828,173, filed April 9, 2001.

This application is also a continuation-in-part of U.S. Patent Application No. 09/887,038, filed June 25, 2001, which is a continuation of U.S. Patent Application No. 09/332,041, filed June 14, 1999, now U.S. Patent No. 6,320,101, issued November 20, 2001.

#### FIELD AND BACKGROUND OF THE INVENTION

The present invention relates to plants characterized by enhanced growth and to methods and nucleic acid constructs useful for generating same.

Growth and productivity of crop plants are the main parameters of concern to a commercial grower. Such parameters are affected by numerous factors including the nature of the specific plant and allocation of resources within it, availability of resources in the growth environment and interactions with other organisms including pathogens.

Growth and productivity of most crop plants are limited by the availability of CO<sub>2</sub> to the carboxylating enzyme ribulose 1,5-bisphosphate carboxylase/oxygenase (Rubisco). Such availability is determined by the ambient concentration of CO<sub>2</sub> and stomatal conductance, and the rate of CO<sub>2</sub> fixation by Rubisco as determined by the Km(CO<sub>2</sub>) and Vmax of this enzyme [31-33].

In C3 plants, the concentration of CO<sub>2</sub> at the site of Rubisco is lower than the Km(CO<sub>2</sub>) of the enzyme, particularly under water stress conditions. As such, these crop plants exhibit a substantial decrease in growth and productivity when exposed to low CO<sub>2</sub> conditions induced by, for example, stomatal closure which can be caused by water stress.